

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

To:

BARTELS UND PARTNER
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70174 Stuttgart
ALLEMAGNE

Bartels und Partner
Patentanwälte

Eingegangen: 12. SEP. 2006
Received:

TERMIN

Date of mailing (day/month/year) 08 September 2006 (08.09.2006)	IMPORTANT NOTIFICATION
Applicant's or agent's file reference 40cdh/229302	
International application No. PCT/EP2004/012642	International filing date (day/month/year) 09 November 2004 (09.11.2004)
Applicant HYDAC SYSTEM GMBH et al	

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

12. Sep. 2006

(PCT Rule 44bis)

Applicant's or agent's file reference 40cdh/229302	FOR FURTHER ACTION	See item 4 below
International application No. PCT/EP2004/012642	International filing date (<i>day/month/year</i>) 09 November 2004 (09.11.2004)	Priority date (<i>day/month/year</i>) 09 December 2003 (09.12.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant HYDAC SYSTEM GMBH		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 *bis*.1(a).

2. This REPORT consists of a total of 10 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input checked="" type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input checked="" type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

<p style="text-align: center;">The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 338 82 70</p> <p>Form PCT/IB/373 (January 2004)</p>	<p>Date of issuance of this report 29 August 2006 (29.08.2006)</p> <p>Authorized officer</p> <p style="text-align: center; font-weight: bold;">Agnes Wittmann-Regis</p> <p>e-mail: pt06@wipo.int</p>
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PATENT COOPERATION TREATY

TRANSLATION

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference

40cdh/229302

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/012642

International filing date (day/month/year)

09.11.2004

Priority date (day/month/year)

09.12.2003

International Patent Classification (IPC) or both national classification and IPC

F03D7/02, F15B7/00

Applicant

HYDAC SYSTEM GMBH

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/012642

Box No. I

Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

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Box No. II

Priority

1. ☒ The following document has not yet been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date in the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2004/012642

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims 7, 9

YES

Claims 1-6, 8, 10, 11

NO

Inventive step (IS)

Claims 9

YES

Claims 1-8, 10, 11

NO

Industrial applicability (IA)

Claims 1-11

YES

Claims

NO

2. Citations and explanations:

1 Reference is made to the following documents:

D1: PATENT ABSTRACTS OF JAPAN volume 1999, number 08,
30 June 1999 (1999-06-30) & JP 11 082409 A (UCHIDA YUATSU
KIKI KOGYO KK), 26 March 1999 (1999-03-26)

D2: US-A-5 035 575 (NIELSEN ET AL) 30 July 1991 (1991-07-
30)

D3: PATENT ABSTRACTS OF JAPAN volume 1997, number 05,
30 May 1997 (1997-05-30) & JP 09 025647 A (SUMITOMO
CONSTR MACH CO LTD), 28 January 1997 (1997-01-28)

D4: JP 58 059194 A (UCHIDA KATSUMI) 8 April 1983 (1983-
04-08)

D5: DE 197 12 516 A1 (C.H. SCHAEFFER GETRIEBE GMBH, 01896
OHORN, DE; C.H. SCHAEFER GETRIEBE G) 1 October 1998
(1998-10-01)

D6: US-B1-6 398 187 (CHANG LEE-CHENG) 4 June 2002 (2002-
06-04)

2 The present application does not meet the requirements
of PCT Article 33(1) because the subject matter of claims
1-6 is not novel within the meaning of PCT Article 33(2).

2.1 With reference to independent claim 1

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

Document D1 discloses (the references between parentheses relate to this document, cf., in particular, figure 4 and the figure of the abstract):

Apparatus for driving movable mechanical components (10; 8, 9), of which at least two (10; 8, 9) are operatively connected to one another in such a way that the other component (10) can be driven by means of one component (8, 9), there being a play between the abovementioned two components (10; 8, 9), at least these two components (10; 8, 9) being moved against one another or being tensioned by means of a hydraulic device (12-16, 18-26) in such a way that the available play between these components (10; 8, 9) can be eliminated.

The features of claim 1 are also disclosed in documents D2 to D6.

The applicant is otherwise advised that it is not clearly apparent from the claim whether the components and the hydraulic device are part of the claimed apparatus (PCT Article 6). It has been assumed here that this is the case.

2.2 With reference to claims 2-6

Document D1 also discloses the features of dependent claims 2-6 (see, in particular, abstract and figure 4). The features of claims 2-4 are also partially known from documents D2, D3 and D5 (see the passages cited in the search report).

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/012642

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

3 With reference to dependent claims 7 to 11

Dependent claims 7 and 8 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step. The reasons are as follows:

3.1 Claim 7

Although the combination of the features of claim 7 is not disclosed in the documents cited in the search report, the common drive of a plurality of pumps is widely spread and generally known to a person skilled in the art. For example, axial piston pumps for closed circuits frequently have an integrated feed pump. Pumps of this type often have a continuous shaft, and are therefore "capable of through-connected driving", which permits the assembly of tandem units.

3.2 Claim 8

As far as claim 8 is to be understood (see Box VIII below), a switching valve (18) is inserted into the hydraulic circuit in the apparatus according to document D1 (cf. abstract and figure 4) between the two hydraulic motors, and a pressure-relief valve can be connected.

3.3 Claim 9

As far as claim 9 is to be understood (see Box VIII below), it could lead together with features from the

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/012642

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

description and the figures to a novel subject matter which involves an inventive step.

3.4 Claims 10 and 11

The additional features of claim 10 are generally known to a person skilled in the art, and the features of claim 11 are disclosed in D1 (see abstract). *Per se*, these claims do not therefore lead to a subject matter which involves novelty and an inventive step.

3.5 It would be obvious to a person skilled in the art to also apply the generally known features to like effect in an apparatus according to document D1. In this way, he would arrive at an apparatus according to each of claims 7 and 8 without thereby being inventive.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/012642

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

Contrary to PCT Rule 5.1(a)(ii), the description does not cite document D1 or indicate the relevant prior art disclosed therein.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/ER2004/012642

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 8 and 9 are not supported, as stipulated in PCT Article 6, by the description, as their scope goes beyond the scope which is justified by the description and the drawings. The positions of the pressure-relief valves in the circuit are unclear.